

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

New claim 17 has been added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-17 are now pending in this application.

Information Disclosure Statement

Applicant notes that an Information Disclosure Statement and PTO/SB/08 form were submitted on May 4, 2009. Applicant respectfully requests that a signed and initialed copy of the PTO/SB/08 form be provided with the next Office correspondence.

Rejection under 35 U.S.C. § 102

Claims 1-6 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 2,731,243 to Flurschutz (hereafter "Flurschutz"). This rejection is respectfully traversed.

A claim is anticipated only if each and every feature as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP § 2131.

Flurschutz discloses a heat exchange apparatus with a pair of plates 10, 12 and sinuously bent wires that form pin-like fins 17 between the plates 10, 12. See Flurschutz at col. 1, lines 15-20; col. 1, line 71, to col. 2, line 12. Flurschutz discloses that the sinuously bent wires form U-shaped loops, as shown in Figures 3, 5, and 9 of Flurschutz. See Flurschutz at col. 2, lines 8-12.

The Office argues on page 2 of the Office Action that the sinuously bent wires that form the fins 17 of Flurschutz form an arcuate piece joined to a flat tube, wherein the arcuate piece has a lower curvature in a middle portion than in a first outer portion and in a second

outer portion of the arcuate piece, as recited in claim 1, noting Figures 3 and 5 of Flurschutz. Applicant respectfully disagrees.

The arcuate regions of the sinuously bent wires of Flurschutz do not have portions with different curvatures. In fact, the wires shown in Figures 3, 5, and 9 of Flurschutz appear to have constant, uniform curvatures throughout any arcuate portions of the wires. Furthermore, any straight or flat portion of the sinuously bent wires, such as the portions forming the fins 17, cannot be part of an arcuate region of a rib, as recited in claim 1, because such straight or flat portions do not have an arcuate shape. Thus, the straight or flat portions of the sinuously bent wires that form the fins 17 cannot be considered to be part of an arcuate piece that has a different curvature than another part of the arcuate piece, as recited in claim 1. Claims 2-6 depend from claim 1.

For at least the reasons discussed above, Flurschutz does not anticipate claims 1-6 because Flurschutz does not disclose all of the features of claim 1. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Rejections under 35 U.S.C. § 103

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Flurschutz as applied to claim 1, and further in view of U.S. Patent No. 6,308,527 to Kuroyanagi *et al.* (hereafter “Kuroyanagi”). This rejection is respectfully traversed. Kuroyanagi fails to remedy the deficiencies of Flurschutz discussed above in regard to independent claim 1, from which claim 8 depends. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 9 and 11-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Flurschutz as applied to claim 1, and further in view of U.S. Patent No. 7,231,965 to Shimoya *et al.* (hereafter “Shimoya”). This rejection is respectfully traversed. Shimoya fails to remedy the deficiencies of Flurschutz discussed above in regard to independent claim 1, from which claims 9 and 11-16 depend. Reconsideration and withdrawal of this rejection is respectfully requested.

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Flurschutz in view of Shimoya and U.S. Patent No. 6,805,193 to Hu *et al.* (hereafter “Hu”). This rejection

is respectfully traversed. Shimoya and Hu fail to remedy the deficiencies of Flurschutz discussed above in regard to independent claim 1, from which claim 7 depends. Reconsideration and withdrawal of this rejection is respectfully requested.

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Flurschutz Kuroyanagi and Shimoya. This rejection is respectfully traversed. Kuroyanagi and Shimoya fail to remedy the deficiencies of Flurschutz discussed above in regard to independent claim 1, from which claim 10 depends. Reconsideration and withdrawal of this rejection is respectfully requested.

Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Flurschutz as applied to claim 1, and further in view of U.S. Patent No. 5,361,829 to Kreutzer *et al.* (hereafter “Kreutzer”). This rejection is respectfully traversed. Kreutzer fails to remedy the deficiencies of Flurschutz discussed above in regard to independent claim 1, from which claim 12 depends. Reconsideration and withdrawal of this rejection is respectfully requested.

New Claim

New claim 17 has been added. Claim 17 depends from claim 1 and is allowable over the prior art for at least the reasons discussed above and for its respective additional recitations.

CONCLUSION

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.


The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the

Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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